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# HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

## Situation of human rights in Iraq

## Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly part two of the interim report on the situation of human rights in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1992/71 of 5 March 1992 and Economic and Social Council decision 1992/241 of 20 July 1992.

ANNEX

Interim report on the situation of human rights in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur

Part Two

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# I. INTRODUCTION

1. The present report constitutes part two of the interim report that the Special Rapporteur on the situation of human rights in Iraq was mandated to submit by the Commission on Human Rights in resolution 1992/71 of 5 March 1992, as approved by the Economic and Social Council in decision 1992/241 of 20 July 1992. Part one of this interim report (A/47/367) was submitted at the end of July 1992. A final report shall be submitted to the Commission on Human Rights at its forty-ninth session.

2. As explained by the Special Rapporteur in his interim report (A/47/367, paras. 3 and 4), he felt it was necessary to divide that report into two parts because of unfolding events in the southern marsh area of Iraq this past summer. At that time, reliable and confirmed reports of serious human rights violations afflicting the population of that region, in particular the so-called "Marsh Arabs", were brought to the attention of the Special Rapporteur. As the only person within the established United Nations machinery specifically charged with studying and evaluating the situation of human rights in Iraq, the Special Rapporteur chose to submit a part of his interim report on the relevant subject at the relevant time. Acting further within the spirit of the Charter of the United Nations, the Special Rapporteur also considered it important to bring his report to the attention of the Secretary-General and the President of the Security Council in addition to the Government of Iraq. The Special Rapporteur believes that those initiatives were fully warranted by the events of the day viewed from a humanitarian perspective.

3. In view of the response of the Government of Iraq to the findings of the Special Rapporteur in his report of 18 February 1992 (E/CN.4/1992/31), voiced in the last session of the Commission on Human Rights on 20 February 1992, and the response of the Government of Iraq to the recent initiatives of the Special Rapporteur, as expressed, inter alia, in the letter dated 6 August 1992 from the Minister for Foreign Affairs of Iraq (S/24388) and the letter dated 5 October 1992 from the Permanent Representative of Iraq to the United Nations (A/C.3/47/2, reproduced below at para. 45), the Special Rapporteur finds it necessary to repeat that, in assessing the situation of human rights in Iraq, he applies only those standards of international law which the State of Iraq has freely chosen to accept or which apply to all States as a matter of customary international law or as recognized general principles of law. In doing so, he has endeavoured at all times to scrutinize the source and content of relevant information and to employ high standards of evidence. Consequently, the Special Rapporteur regrets that his efforts to apply the standards of international law have been interpreted by the Government of Iraq as constituting bias.

4. In keeping with his concern for the present situation of human rights in Iraq, this second part of the Special Rapporteur's interim report concentrates on the economic and social rights of the population. That focus is explained by the pressing needs of the most vulnerable within the country whose basic

needs are not being met and whose fundamental rights to life and primary health are threatened by inadequacies in this regard.

5. While the present report essentially responds to an urgent and special concern, the Special Rapporteur remains fully aware of the indivisible nature of the entire body of human rights and fundamental freedoms. In this knowledge, the breadth of human rights concerns, including civil and political rights, are being studied and will be addressed in the report to be submitted to the Commission on Human Rights at its forty-ninth session. It is hoped in this connection that the next report will benefit from information to be obtained in the course of a visit to Iraq, which the Special Rapporteur has requested should begin at the end of November 1992.

## II. THE SITUATION OF ECONOMIC AND SOCIAL RIGHTS

### A. In general

6. Issues relating to the situation of economic and social rights in Iraq have been raised and addressed by the Special Rapporteur in each of his previous reports (see A/46/647, paras. 52 to 54 and 95 to 98; E/CN.4/1992/31, paras. 29, 81 to 83, 145 (o) and (p), and 158 at 4 and 5; and A/47/367, paras. 14 and 15). The primary concern has been and remains minimum access to food and health care, particularly for the most vulnerable. Following from the essentially humanitarian perspective, which is integral to human rights matters in general, the prevailing situation raises concern over respect for the specific human rights to food and health (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, respectively) and, where the minimums are not respected, respect for the right to life (article 6 of the International Covenant on Civil and Political Rights).

7. While minimum access to food and health care for all the population is of concern, the situation in Iraq is such that particular groups of persons are specially affected. Aside from the poor throughout the country, the population in the Kurdish-controlled northern region and the population of the southern marsh area are evidently subjected to special regimes within the country. The situations of these last two groups would seem to apply largely as a result of the anti-Government uprisings, which took place in their regions in March 1991, and because of the nature and organization of those groups. Consequently, there are specific social effects. For that reason, certain matters of a social, if not cultural, nature must be addressed.

8. In assessing respect for human rights in terms of the economic situation in Iraq, one must take into account certain important facts. First, Iraq is not a poor country either in terms of natural endowments or in terms of its level of economic development. To the contrary, Iraq is among the most naturally well-endowed countries in the world and it has attained a relatively high level of economic development owing largely to international trade and the ingenuity of its multifaceted and hard-working populace. A second important fact is the special regime of economic sanctions which have been placed on Iraq by the Security Council, which is so competent under

international law, subsequent to Iraq's aggression of 2 August 1990 against the State of Kuwait; the sanctions are to remain in place until it is deemed that Iraq has fully complied with certain specified obligations under international law (see Security Council resolution 687 (1991) of 3 April 1991, para. 22). Within this special regime of economic sanctions, it is necessary to take account of a third important fact: precisely for humanitarian reasons, there is no embargo on medicaments and the import of foodstuffs is permissible upon the prior approval of the Committee set up to oversee the sanctions regime (see Security Council resolution 661 (1990) of 6 August 1990, paras. 3 (c) and 4 and, generally, Security Council resolution 666 (1990) of 13 September 1990).

9. In general, and by every account, problems of access to food and health care in Iraq are cause for great concern. There are shortages of a wide range of goods, not least of all among basic necessities. According to information received from the Government of Iraq, from the United Nations Department of Humanitarian Affairs and from non-governmental organizations, shortages are most notable in regard to commodities such as milk and milk products, vegetable oil, sugar, tea, flour, rice, veterinary drugs, medicines, vaccines, medical supplies, specific parts and equipment for water-treatment and sewage-treatment systems, and special materials for power and telecommunication systems. In the face of those shortages, the population must also contend with extremely high inflation, which often places the available goods beyond the reach of those on fixed incomes and among the poorer segments of the population. Hence, the effects of the shortages bear disproportionately hard on those already more vulnerable. This is also a consequence of the fact that the official government distribution system, which provides minimum rations, has to be supplemented on the free market at exorbitant prices. As a result, the same sources referred to above cite record levels of malnutrition, disease, and infant and adult mortality; without conducting an empirical, on-site study himself, the Special Rapporteur does not dispute the figures reported by the Government of Iraq in its Press Release and Sanctions Bulletin of 31 July 1992, or in its letter of 17 June 1992 (see para. 43).

10. Of course, it must also be pointed out that limited quantities of basic necessities are still available, and it is within the power of the Government to devise policies ensuring an equitable distribution of those goods which exist. Rather than doing so, however, it is noted that the largely centrally controlled system of distribution employed by the Government of Iraq has evidenced wide disparities in access to food and health care such that the already privileged (for example, certain portions of the military establishment and the civil service) benefit in the face of the suffering of the already underprivileged (see A/46/647, paras. 52 to 55 and 98). Moreover, and in emphasizing the gravity of the situation, the Government of Iraq should surely be doing everything within its power to place the survival of those for whom it is responsible above any lofty and relatively abstract arguments of State and prestige such as are contained in the Government's arguments of "sovereignty". In any case, the Government of Iraq should be prepared to exploit any available opportunity to enlarge its material resources, such as

through acceptance of international assistance and through acceptance of projects such as the so-called "food for oil" formula proposed by the United Nations in Security Council resolutions 706 (1991) and 712 (1991). In that connection, the Special Rapporteur notes that the Government of Iraq may still take advantage of the "food for oil" formula (see Security Council resolution 778 (1992) of 2 October 1992, para. 6).

11. With regard to the aforesaid opportunities, the Special Rapporteur notes the signing on 22 October 1992 of a Memorandum of Understanding between the United Nations and the Government of Iraq concerning the provision of humanitarian assistance to the people of Iraq. Evidently, such an agreement is long overdue as the delays in achieving it have cost unknown suffering and lives. Still, even setting aside any discussion of the responsibility for those delays and ignoring the overriding relevancy of Security Council resolution 688 (1992) of 5 April 1992, which constitutes a significant element in the special regime that applies to Iraq in international law, it is hoped that the badly needed aid can move quickly to those who are in need. However, for the humanitarian object of the Memorandum of Understanding to be quickly realized, the Government of Iraq must act forthwith to ensure the following:

(a) The "Plan of Action" referred to in the Memorandum of Understanding must be implemented without delay;

(b) The Government of Iraq must respect its commitment to provide 500,000 Iraqi dinars per month to the programme;

(c) The Government of Iraq must act quickly to enable interested non-governmental humanitarian organizations to return;

(d) The Government of Iraq must restore the confidence of United Nations personnel and humanitarian workers by acting to ensure their security and by bringing to an end the harassment suffered by so many.

12. Concerns surrounding (b) and (d) above demand further explanation and attention. To begin with (b), it would seem clear that it is fully within the power of the Government of Iraq to provide such a sum of money from its treasury inasmuch as the Government holds the exclusive power to print the money. The object of this contribution is obviously to facilitate the humanitarian programme within the country by covering a portion of the internal purchases, for example, for transport and heating fuel. However, since the experience under the two previous Memoranda of Understanding shows a poor record on the part of the Government (having paid its then agreed monthly contribution of 1 million Iraqi dinars in only 3 of the 14 months), the Special Rapporteur hopes that the present undertaking will be honoured. It is to be noted, however, that, as of 5 November 1992, the initial payment of 500,000 Iraqi dinars due at the beginning of the month has not yet been made.

13. With regard to Iraq's obligations to ensure the safety and security of United Nations personnel and admitted humanitarian workers, the Special Rapporteur's attention has been raised by the history of harassments and

assaults suffered by United Nations personnel during the last eight months. In well over 100 separate incidents, United Nations staff have been subjected to: personal threats over the telephone and in person; searches and interrogations; temporary detentions and physical restraints; extortion of payments; confiscation of vehicle fuel and other properties; numerous attacks on properties (for example, vehicle tyre-slashings, windscreen smashings and paintings etc.); physical assaults, including pushings, spittings, stone-throwing, rock-throwing, gunshots, grenade attacks and even rocket-launched grenade attacks. As a result of those incidents, hundreds of hours of humanitarian relief work have been lost, properties have been lost, dozens of vehicles have been damaged, personnel have been injured (some seriously), and one United Nations Guard has died. While certain of those incidents (including the rocket attack and the only death) have occurred in the northern areas no longer controlled by the central governmental authorities, the great majority of incidents have occurred in government-controlled areas. Several incidents have occurred at government checkpoints, with one recording the attachment of a magnetic bomb to a United Nations vehicle as it passed through a government checkpoint, thus casting a strange light on government contentions that the incidents are the result of spontaneous expressions of public anger. In other cases, assaults have occurred in the presence of local police or government security personnel, who have failed to intervene. Moreover, the record shows a clear escalation of harassment moving from delaying incidents at checkpoints beginning in February and turning to physical violence from the end of June. Understandably, those incidents have rendered it progressively more difficult for the humanitarian programme in Iraq to function, and the Special Rapporteur remains concerned that current humanitarian efforts will be undermined by such harassment as befell the United Nations weapons inspectors of the Special Commission established according to Security Council resolution 687 (1991) of 3 April 1991 at the end of October.

14. In relation to the new Memorandum of Understanding, and in light of the recent history of harassment of United Nations personnel and humanitarian workers in Iraq, the Special Rapporteur hopes that the Government of Iraq will move to protect against such incidents. Irrespective of identifying those individuals responsible for the above-mentioned assaults, the Special Rapporteur finds it pertinent to recall in this connection that there is a presumption against the Government, which is obliged under general international law (without mentioning human rights instruments guaranteeing rights of personal integrity and security of person) to assure the reasonable security of lawfully admitted aliens and a fortiori internationally protected persons and properties, such as United Nations personnel and property, who and which enjoy specific immunities according to Articles 104 and 105 of the United Nations Charter and according to the 1946 Convention on the Privileges and Immunities of the United Nations (General Assembly resolution 22 A (I)). Further, the Special Rapporteur hopes that the Government of Iraq will act assiduously in ensuring the security of the otherwise unprotected workers of international non-governmental humanitarian organizations, especially since, outside the three northern governorates, there are now essentially no more United Nations Guards to provide protection for those people. By ensuring

this security, the Government would contribute to the more efficient and effective delivery of humanitarian assistance to its needy people.

## B. The southern marsh area

15. As explained above, within the special regime under international law created by the economic sanctions on Iraq, there exist yet more special situations. In the first part of his interim report, the Special Rapporteur drew attention to the particular plight of the people of the southern marsh area of the country. The general case was taken up before the Security Council in August of this year, and the concern of the Special Rapporteur evoked a specific response from the Government of Iraq, which is reproduced at paragraph 45 below and is considered by the Special Rapporteur in paragraph 53 below.

16. Focusing here only on the economic and social situation as it affects the people of the southern marshes, the Special Rapporteur would like to take up again two specific issues. The first issue concerns access to food and health care and the second issue concerns the enormous undertaking known as the Third River project. In relation to the latter issue, it will also be necessary to evaluate the project in the special context of the rights of the tribal peoples who inhabit the affected region.

17. With respect to access to food and health care, it should first of all be pointed out that southern Iraq endured both the effects of the Gulf War of 1991 and the effects of the March 1991 uprisings. Several communities were badly damaged, and many thousands of people were displaced. Although humanitarian needs have therefore been considerable, reconstruction efforts have lagged behind those in the central part of the country. Moreover, those international relief agencies which were active in the region after the uprisings were progressively scaled down and this past summer were asked by the Government to leave.

18. In the marsh areas, the local people attempted to continue to live their ancient life-style of fishing and herding water-buffalo, while thousands of others from the southern cities, towns and villages sought refuge among the reeds and the local tribes as they escaped the pursuit of government forces apparently seeking to arrest them for their participation in the uprisings - despite the declaration of general amnesties in this regard (see A/46/647, annex, paras. 43 to 46, 55 and 86). However, the Government has been pursuing its objectives with indiscriminate bombardments and destruction of local marsh villages and hamlets, resulting in innumerable arrests and deaths. In addition, the area is subject to a large military campaign that has closed off the area to free movement of persons and goods: the Special Rapporteur has reliable information that there is a de facto economic blockade on the region despite the contention of the Government that "there is no truth to this allegation" (see A/C.3/47/2, para. 13, reproduced below at para. 45). In these conditions, the local people are suffering especially and disproportionately in terms of their rights to food and health care.

19. Also having a serious impact on the local people is said to be the draining of large parts of the marshes as part of the Third River project. To be clear, the Special Rapporteur has never doubted the real and significant development dimensions of this enormous project. However, as with any project of this scale which so fundamentally reorders the natural environment, there are bound to be real, significant and potentially harmful human and environmental effects. Moreover, viewed in the special context of the actual situation, the Special Rapporteur had, and still has, cause for great alarm.

20. In assessing the effects of the Third River project, the Special Rapporteur expressed concern over the impact of the project on the natural environment and the impact of the project on the tribal peoples, who have inhabited the marshes since time immemorial (see A/47/367, para. 15). In addition, the Special Rapporteur implicitly wondered about the need of the authorities to speed up the completion of the project after so many years. Seen in the context of the recent history of the region, the video-recording (see A/47/367, para. 8) of the present Prime Minister instructing commanders to wipe out certain local tribes (including notably the Jawaber tribe of the Hamar area) and the present military actions, motives other than development were alleged to explain the rapid work on the project. Of course, the Special Rapporteur recognizes the Government's assessment of the perceived development benefits, but equally observes how the results of the project may be abused and negatively affect the so-called Marsh Arabs.

21. Taking a yet closer look at the situation in the southern marshes, it becomes apparent that one is dealing with tribal groups that constitute at least a minority in terms of Article 27 of the International Covenant on Civil and Political Rights. In fact, the Marsh Arabs (or Ma'dan, as they are more correctly known) have inhabited the marshes since time immemorial and therefore constitute what is better known as an indigenous people. Given their status and their special relationship with their environment, the Ma'dan clearly hold rights of special consideration vis-à-vis the development of their ancestral territories. To the contrary, however, the development project of the Third River threatens to destroy this unique culture together with the unique environment and landscape wherein the Ma'dan have survived for millenia. And rather than take into account the rights of these people, who are so harshly affected by this development project brought upon them from the outside and for the benefit of others, the Government of Iraq merely dismisses these people as "the small number of those raising water-buffalo and living in the marshlands in backward conditions" for whom a life as "cultivators within a modern framework" is apparently to be provided (S/24388, annex, para. 13). Such characterizations, coupled with other derogatory references to the Ma'dan (see E/CN.4/1992/31, para. 126), give credence to the most serious of allegations and reinforce the worst fears about government policy in the region.

22. As the economic and social rights of the Ma'dan people are so interrelated, especially in the face of the economic embargoes and the Third River project (putting aside the allegations of a policy to wipe them out), it becomes apparent that the most appropriate framework for consideration of

their situation is their status as an indigenous people. Here it is worth noting that, on 16 July 1986, the Government of Iraq ratified International Labour Organisation Convention 107 of 1957 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries. Part II of Convention 107, entitled "Land", stipulates that these populations are to be recognized as having the right of ownership over their traditional lands (or marshes, as is the case), and that their removal in the interest of national economic development must be accompanied by full compensation. According to the terms of United Nations instruments, expropriation must also meet the minimum standards of legal process. In all cases, the affected population must be consulted. Since 1980, the World Bank has acknowledged the importance of respecting human rights, in particular indigenous rights, in undertaking development projects, while in 1987 the World Commission on Environment and Development asserted that "the starting point for a just and humane policy for [indigenous and tribal] groups is the recognition and protection of their traditional rights to land and the other resources that sustain their way of life". a/ To respect fully those rights, then, the Government should:

(a) Conduct adequate assessments of the human impact of the proposed project;

(b) Consult the people potentially to be affected;

(c) Take full account of the special situation and rights of the potentially affected people before determining "the national interest" of the development project;

(d) Properly and fully compensate the affected people should it be deemed in the national interest to remove them from their traditional lands.

23. In the case of the Third River project, it is evident that the Government has failed to respect its obligations. Indeed, a development project said to have been initiated some 40 years ago probably took into account very few if any of the concerns just raised. However, in the face of the apparently completed project, the Special Rapporteur's most reasonable call for a moratorium has been surpassed by events. Still, it is not too late to consult the affected population about the next course of action or about the payment of an appropriate compensation.

## C. The Kurdish-controlled north

24. The situation in the Kurdish-controlled northern part of Iraq constitutes another special situation within the special regime pertaining to the whole country. As in the case of the southern marsh area, the presence of minorities again forms a significant part of the picture. However, while the economic situation may be said to be appreciably more precarious in the northern region, the social situation may be said to be appreciably better owing to the local control held by the people.

25. To place that evaluation in its proper context, it must be recalled that the Government of Iraq completely surrendered control over the territory when it withdrew its defence and security forces together with its governmental administration following the March 1991 uprisings. Subsequently massing armed forces along an artificial frontier with the northern area, the Government disclaims responsibility for the area, while it maintains its claim over the territory. From the southern and western sides of the artificial frontier, government forces control persons and goods going in and coming out of the region. In fact, those forces administer a strict economic embargo against the northern area, which admits to virtually no exceptions for foodstuffs or heating fuel.

26. The area in question is also bordered by the Syrian Arab Republic to the west, Turkey to the north and the Islamic Republic of Iran to the east. In the past year, most goods have been imported through Turkey, since there is a limited availability of goods through either the Syrian Arab Republic or the Islamic Republic of Iran. When the Kurdish Workers Party (PKK) of Turkey acted in September to impose an embargo on the Turkish frontier, the predominantly Kurdish population of the northern Iraqi region was essentially subjected to what they termed a "triple embargo" (the effect of the PKK-imposed embargo combined with the internal Iraqi embargo and the United Nations-imposed general economic sanctions) without humanitarian exception. That PKK-imposed embargo has been overcome, but, as winter is now rapidly approaching, many roads from Turkey will become virtually impassable for trucks carrying food, fuel and medical supplies. Moreover, the present situation is complicated by the struggle on Iraqi territory between PKK fighters, on the one hand, and Turkish forces and Iraqi Kurds, on the other hand.

27. Having participated in the popular insurgency of March 1991, the people of the northern region found themselves in control of the area, but without an administration or many resources. Until elections were held in May 1992, the area was administered partly by the remaining local administration without financial support or instruction from Baghdad and partly by the Kurdistan Front (an association of eight Kurdish parties in opposition to the Baghdad Government). As of the elections of 17 May 1992, a regional Parliament and Government has been formed, which first characterized itself as the lawfully established Government of the Kurdish Autonomous Region within the State of Iraq and now seeks to become the Government of the northern region within a federally structured State of Iraq, which it hopes will be established throughout the country.

28. Since the central authority's withdrawal of administration in the spring of 1991, the economic blockade against the north has been maintained to varying degrees. This is in clear violation of Iraq's obligations under Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, as has been pointed out by the Special Rapporteur on several occasions (during his 8 January 1992 meeting with Deputy Prime Minister Tariq Aziz, in his report (E/CN.4/1992/31, paras. 83 and 104 to 105) and, most recently, in his speech of 11 August 1992 before the Security Council (S/PV.3105, pp. 16-25).

29. In order to survive in their economic isolation, the people and local government of the northern region have become heavily dependent upon international humanitarian assistance; the existence of natural resources in the region cannot be exploited for trade because of the economic sanctions placed on the State of Iraq pursuant to Security Council resolution 661 (1990) of 6 August 1990. As explained, those sanctions, coupled with the internal embargo, bear disproportionately on the local population. Attempting to revive the local agriculture, which was largely destroyed at the end of the Iran-Iraq War and in its aftermath, and which remains hampered by the existence of mines on many fields, a fair crop was harvested this past fall. But, in an effort to obtain cash for other necessities in a hyper-inflationary economy, many farmers sold their crops to buyers in the central part of Iraq at elevated prices. The result is that the northern region remains short of foodstuffs.

30. The situation relating to medicaments and fuel is even worse. Medicines and medical supplies are in even shorter supply in the northern region than elsewhere in the country. But it has been said by some observers that people may well freeze before they starve or die of illness: the oil refineries are located in the area controlled by the Government of Baghdad, and there is now a 100 per cent embargo against the northern region. In an effort to keep warm through the cold winters in this mountainous region, the people have already cut down whole tracks of orchards and deforested large areas. Thus, in one of the world's richest oil States, there exists the spectre of millions of people freezing to death this winter for lack of heating fuels.

31. Estimates of the number of people at risk in the northern area this winter range from 750,000 (according to the United Nations Department of Humanitarian Affairs' Winter Plan for Northern Iraq, dated 28 September 1992) to the whole population of between 3 million and 4 million in so far as there is essentially an absence of heating fuel in the region. Among many others, the Special Rapporteur anticipated this potentially tragic situation and attempted to draw attention to the problems in his August speech to the Security Council. At the same time, the Government of Iraq tightened its internal embargo and carried out intermittent shelling of parts of the Kurdish area. Only very recently, on 22 October 1992, did the Government of Iraq finally agree to a new humanitarian plan for the country (including the northern region) and, as already mentioned, it is hoped that such a programme will be implemented with all speed. But, even if the Government of Iraq will provide its maximum cooperation in carrying out the new Memorandum of Understanding to the full, the delay caused by the refusal of the Government to extend the former Memorandum of Understanding, which expired on 1 July 1992, may lead to a situation in which too little food and fuel will reach the northern region in time, resulting in the suffering and death of countless people. In that connection, it is necessary to recall the warning of the Secretary-General in his letter of 2 September 1992: "in the North, the population will be placed at serious risk if adequate food and fuel supplies are not prepositioned by November and should the Government not reinstate adequate food rations by that date" (S/24509). Against this background, the Special Rapporteur draws particular attention to paragraph 2

of the Memorandum of Understanding in which both the Government of Iraq and the United Nations recognize the need for a humanitarian programme "to alleviate the suffering of the affected Iraqi civilian population throughout the country", clearly underscoring the obligation of the Government of Iraq to end immediately its internal embargoes.

## D. The responsibility of the Government of Iraq

32. Notwithstanding the special regime of the economic sanctions, and notwithstanding the damage sustained by Iraq in the war brought on by Iraq's invasion and persistent occupation of Kuwait, it must also be noted that Article 2 of the International Covenant on Economic, Social and Cultural Rights obliges the Government of Iraq to guarantee the relevant human rights "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status", while Article 2 of the International Covenant on Civil and Political Rights obliges the Government of Iraq "to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights ... without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Hence, even when the Government of Iraq finds itself in a position of limited access to certain goods and resources, it is obliged to ensure a fair and equitable distribution of those resources which it does possess. That obligation has been articulated in considerable detail by the United Nations Committee on Economic, Social and Cultural Rights in its 1990 General Comment 3. Given such a situation as is at hand, therefore, extra efforts should be made to satisfy the basic needs of the most disadvantaged, while policies aimed at denying certain groups such access constitute serious violations.

33. In assessing the responsibility of the Government of Iraq for violations of economic and social rights, the Special Rapporteur draws attention to the letter of the Secretary-General to the Security Council dated 24 August 1992 (S/24509), in which the Special Rapporteur notes the conclusion that "the Government's position prevents the Inter-Agency Humanitarian Programme from providing effective humanitarian assistance to vulnerable groups in Iraq". While this assessment was rendered prior to the signing of the recent Memorandum of Understanding, the Special Rapporteur shares the expressed view of the Secretary-General, which clearly established the responsibility of the Government of Iraq during that period.

34. In relation to the situation in the southern marsh area, the economic and social effects of the de facto economic embargo, coupled with the completion of the Third River project, make it clear that the Government is responsible for both the policy and the project. However, and to respond to the question put by the Government in its letter of 6 August 1992 (S/24388, para. 13), it is not for States alone to regulate their water, to build dams, drain lakes, or inundate parts of their territory; these are not internal matters when they affect the human rights of people or, for example, affect the riparian rights

of other States: these are matters of international concern. In the case at hand, and as a result of the effects of the de facto economic embargo and the Third River project, the Government is each day responsible for additional and resultant violations. As such, the Government is also to be held responsible for due compensation.

35. As concerns the indiscriminate bombardments and destruction in the southern marsh area, it must be said that those practices have no place in police actions to effect the arrest of suspected or known "army deserters, murderers, smugglers, as well as agent infiltrators from neighbouring countries" (SC/5452, 11 August 1992) as argued before the Security Council by Abd Al-Amir Al-Anbari, the then Permanent Representative of the Republic of Iraq to the United Nations, and essentially by the Government of Iraq in its letter of 5 October 1992 (A/C.3/47/2, annex, paras. 8 and 9). Hence, the Government of Iraq must also be held responsible for violations of the rights to security of person, due process of law, life and property of all those wrongly injured and/or killed.

36. With respect to the Kurdish-controlled northern area, the responsibility of the Government of Iraq is no less. Indeed, the Government has added responsibilities for the results of the fuel shortage, which undermines basic economic activity and renders almost impossible the provision of heat for the people's shelters, violating in the latter instance the right to adequate housing stipulated in Article 11 of the International Covenant on Economic, Social and Cultural Rights (see, in particular, the 1991 General Comment 4 of the Committee on Economic, Social and Cultural Rights).

37. As a general matter, so long as the Government of Iraq maintains its claim to sovereignty over the whole country, including the northern region from which it has withdrawn, it must be held responsible to the extent it can effect conditions and events. As far as the economic and social situation is concerned, the Government of Iraq is clearly able to effect the conditions of its people. By failing to ensure a fair and equitable distribution of such goods as exist, by failing to take advantage of opportunities to enlarge its resources, such as through the proposed formula of "oil for food", and by acting in a most express and damaging way to deprive whole areas of the country and the populations therein from obtaining access to foodstuffs, medicaments and fuel resources (the last of which are abundant within Iraq), the Government of Iraq is responsible for violations of economic and social rights of those within its jurisdiction. The Special Rapporteur now hopes that the Government of Iraq will not fail to bring to fruition the international humanitarian programme recently agreed with the United Nations.

## III. CORRESPONDENCE FROM THE GOVERNMENT OF IRAQ

### A. Correspondence received

38. From the very beginning of his mandate, the Special Rapporteur has been committed to providing the Government of Iraq every opportunity to present its views and arguments concerning the situation of human rights in Iraq. This commitment was expressed directly in the Special Rapporteur's very first communication with the Government. In order to ensure that this commitment is fulfilled, the Special Rapporteur has endeavoured to publish verbatim all correspondence received from the Government, save for such attachments and appendices as are otherwise available as United Nations documents. In maintaining that practice, all correspondence received from the Government of Iraq since the report of the Special Rapporteur to the Commission on Human Rights at its last session (see document E/CN.4/1992/31) is presented here below.

39. The following is a letter dated 28 February 1992; the attachment referred to in the letter is reproduced as appendix II to the present report:

> "The Permanent Mission of the Republic of Iraq to the United Nations Office and the other international organizations at Geneva presents its compliments to the Centre for Human Rights and has the honour to request it to transmit to the Special Rapporteur of the Commission on Human Rights on Iraq the attached list concerning decisions taken during 1990 and 1991 in regard to the harsh treatment of suspects during questioning.
>
> "The Mission takes this opportunity to convey to the Centre for Human Rights the assurances of its highest consideration."

40. The following is a letter and attachment dated 5 March 1992:

> "The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and has the honour to request it to transmit to the Special Rapporteur of the Commission on Human Rights on Iraq the attached replies of the competent Iraqi authorities concerning some of the questions and lists which the Special Rapporteur submitted to the Iraqi authorities during his visit to Iraq.
>
> "The Mission takes this opportunity to convey to the Centre for Human Rights the assurances of its highest consideration.
>
> "The replies of the competent Iraqi authorities to the questions and lists submitted to them by the Special Rapporteur of the Commission on Human Rights on Iraq are as follows:
>
> "1. The Special Rapporteur raised the question of the disappearance of a number of Kurds during the Iraq-Iran war, particularly during and after 1988. We wish to point out that the competent Iraqi authorities have

already replied to this question by stating that the circumstances of the Iraq-Iran war made it difficult to control the border regions at that time, thereby making it easy for some groups (consisting of individuals or clans such as the Barzani clan, part of which is currently living in Iran) to leave Iraq either of their own free will or under pressure from some influential individuals collaborating with Iran. Many persons probably fled from those regions out of fear of the military operations that were being conducted in the areas where they were currently living, and others probably left Iraq illegally in order to evade military service.

"2. The Special Rapporteur submitted a list concerning the alleged disappearance of persons during and after the disturbances that occurred following the aggression against Iraq, together with a list concerning the alleged disappearance of six religious dignitaries. We wish to refer to the reply of the competent Iraqi authorities in this regard, addressed to the Special Rapporteur of the Commission on Human Rights on religious intolerance, which indicated that the persons named on those lists probably left the country during the aggression against it or during the disturbances or might have been killed during the clashes that occurred while the State was recovering its sovereignty and authority. As in the case of government employees and a number of officials, these persons were never identified. In this connection, we wish to point out that the competent authorities from time to time discover mass graves of unidentified persons killed by subversive groups.

"3. The Special Rapporteur submitted a list containing the names of 237 persons who had allegedly been executed in the governorate of Ta'mim, together with a letter from an unspecified official body (only the reference number and date were quoted). With regard to the persons named on the list, we wish to point out that the Iraqi authorities deny these allegations, which are being circulated by some bodies which submit the names of fictitious persons to various international organizations together with allegations that they have been killed or are missing. The purpose of these allegations is obviously of a purely political nature and is in keeping with the campaign that is being waged against Iraq.

"4. With regard to the letters allegedly emanating from security departments at Sulaimaniya, Halabja and elsewhere, we wish to point out that, during the disturbances, hostile bodies succeeded in obtaining stationery bearing the letterhead of those departments, which they used to forge letters ostensibly emanating from official bodies. Investigations have shown that those official letters were not issued by the departments referred to and the information contained therein is wholly fabricated. The manner in which one of these letters was drafted shows that it was written by a person with a poor command of the Arabic language, thereby confirming its spurious nature.

"5. The Special Rapporteur raised the question of the destruction of the religious school at Samarra. The competent authorities have replied as follows:

"During the disturbances that occurred in Iraq after the aggression, irresponsible and unknown groups destroyed the remaining structure of the school, which had long been abandoned in view of its dilapidated condition and in which no religious or educational activities had taken place for many years due to that reason. The competent authorities are conducting an investigation with a view to identifying the persons responsible for its destruction."

41. The following is a letter and attachment dated 9 March 1992:

"The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and has the honour to request it to transmit to the Special Rapporteur of the Commission on Human Rights on Iraq the attached list containing the names of 26 of the persons referred to in the Mission's note 7/4/Special/25 of 31 January 1992, who have been released due to the lack of evidence against them.

"List of persons released: 1. Kamar Jaheem Judaih;
2. Jasim Lafta Karamullah; 3. Hashim Duwaih Abba;
4. Hassan Abdul Sada Khalaf; 5. Yaseen Hussein Jawda;
6. Ala Hussein Kaitan; 7. Shakir Hamdan Kadhim; 8. Muhsin Abed Turaikhi;
9. Riadh Hatim Hassoun; 10. Muhsin Alwan Finjan; 11. Rashid Wada' Abboud;
12. Sari al-Jih Akeel; 13. Sajid Hadi Radhi; 14. Kadhim Buraih Ra'i;
15. Haleem Abdul Sada Mani'; 16. Fulaih Hassan Shuwaili;
17. Muzan Subaih Sabah; 18. Kadhim Abbar Adahim; 19. Karim Wadi Huraija;
20. Sattar Mandil Salih; 21. Dir'am Wadi Huraija;
22. Faiq Jalloud Dhamad; 23. Abdullah Kadhim Ni'ma;
24. Eidan Shanbil Jadawa; 25. Habib Nasir Hussein;
26. Sahn Hatif Shuwaili."

42. The following is a letter dated 5 May 1992:

"The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and has the honour to request the Centre to transmit the following to the Special Rapporteur of the Commission on Human Rights on Iraq:

"In reply to the question raised by the Special Rapporteur in paragraph 50 (c) of the Arabic text of document A/46/647 of 13 November 1991, concerning the present condition of the Dar-es-Salaam cemetery in the governorate of Najaf, please note that the President of the Republic of Iraq has given instructions for the reconstruction of the Zeinul Abidin shrine in the governorate of Najaf, where the paths in the cemetery of Najaf are also to be replanned, paved and expanded. The cemetery itself is to be provided with lighting, fenced and cleared of debris. These instructions form part of the measures that the Government of Iraq is taking to repair the damage caused to the Holy Places and the cemetery at Najaf during the disturbances that occurred in March 1991."

43. The following is a letter and attachment dated 17 June 1992:

"The Permanent Mission of the Republic of Iraq at Geneva presents its compliments to the Centre for Human Rights and, with reference to the meeting on 23 May 1992 between the First and Second Secretaries of the Mission and Mr. John Packer, assistant to the Special Rapporteur of the Commission on Human Rights on Iraq, has the honour to transmit herewith some information received from the Ministry of Health in Iraq in response to Mr. Packer's request for details concerning the effects of the economic embargo on the health situation of the civilian population of Iraq.

"Information

"1. The morbidity rates for typhoid, paratyphoid and amoebic and bacillic dysentery are now five to six times higher than the previous annual rates. The incidence of viral hepatitis is also more than eight times higher than the normal annual rate. A cholera epidemic has broken out and 1,217 cases requiring treatment have been reported, of whom dozens have died. The incidence of respiratory diseases is also seven to eight times higher than the normal annual average. During the period from 2 August 1990 to May 1992, there was an evident increase in infant mortality, with a total of 45,731 deaths, and also in adult mortality, with 93,866 deaths during the same period, mainly as a result of the lack of medicines to treat cases of cancer, diabetes, high blood pressure and cardiac diseases.

"2. The fact that pregnant women are deprived of medical care due to the lack of medicines and balanced nutrition has affected the natural growth of their unborn children, some of whom have been underweight at birth and therefore exposed to dangerous diseases and even death. The incidence of such cases amounted to 4 per cent in 1990 and 10.8 per cent in 1991.

"3. Therapeutic and diagnostic services have been greatly affected by the economic embargo due to the lack of pharmaceutical and other medical requisites, such as radiographic machines and films and laboratory equipment. All this has led to a deterioration in the standard of therapeutic services and has had an adverse effect on patients, many of whom have died. By the end of 1991, the number of deaths among patients as a result thereof amounted to 98,669. The number of beds (occupied or available) has also decreased by 50 per cent since 2 August 1990. In spite of the decision taken by the Security Council and the Committee on Sanctions to permit Iraq to use its frozen assets in international banks to purchase medicines and food, most of the States in which these assets are held have not permitted the banks concerned to accept the letters of credit, amounting to about $265 million in 1991 alone, which the Central Bank of Iraq opened for the purchase of pharmaceuticals and medical requisites. Consequently, the stocks of pharmaceuticals, and particularly those for which there is a vital and urgent need, have declined to a dangerous level, as a result of which many patients have

died. The same applies to well-known medicines for children's diseases and there has been a similar decline in stocks of medical equipment. The economic embargo has led to the sequestration in foreign ports of numerous consignments, valued at ID 5 million, ordered from various suppliers. Moreover, the annual import programme has been disrupted by the lack of liquid hard currency reserves in the country.

"4. The economic embargo led to the suspension of all shipments of pharmaceuticals and medical requisites from international suppliers in accordance with contracts concluded with the Ministry of Health prior to 2 August 1990. It should also be borne in mind that the suppliers had received payment in advance for some of those pharmaceuticals and medical requisites before the events of 2 August 1990. In spite of this, however, the suppliers concerned failed to ship the goods, thereby causing a severe shortage in this field.

"5. The aggression by the 30 countries and the subsequent disturbances caused considerable damage to the buildings and property of health institutions as a result of the hostile bombardment. The cost of the damage to the 429 hospitals and health centres amounts to 250 million dinars ($750 million). This includes damage to buildings, stocks of pharmaceuticals, medical and service equipment, ambulances and other vehicles operated by health institutions, as well as furniture and other basic medical equipment needed for the provision of health services.

"The aggression also led to the destruction of the basic infrastructure for the protection and enhancement of the environment, including sewage and drainage networks, thereby causing a proliferation of epidemics and diseases such as cholera morbus, typhoid, malaria, dysentery, etc. The estimated cost of combating these diseases amounts to 35 million dinars ($120 million). In addition to the above, the aggression also resulted in many cases of temporary and permanent disability, the treatment of which will cost an estimated 20 million dinars ($65 million).

"The aggression also led to many cases of mental depression and phobia among Iraqi citizens due to the savage aerial bombardment and hostile missiles. The estimated cost of treating these cases amounts to 18 million dinars ($60 million)."

44. The following is a letter dated 10 September 1992. (For the attachment see A/C.3/47/2, annex, appendix 3.)

"The Permanent Mission of the Republic of Iraq presents its compliments to the Centre for Human Rights and has the honour to request it to transmit the attached document to the Special Rapporteur on human rights in Iraq.

"The attached document is a copy of an article written by Professor Thomas Naff of the University of Pennsylvania, who is the Director of the Middle Eastern Hydrology Project, which appeared in the Washington Post on 4 September 1992 on the subject of the project for the third river in Iraq."

45. The following is a letter dated 5 October 1992. It is to be noted that the letter and attachment were also submitted by the Government of Iraq directly to the General Assembly (A/C.3/47/2, annex, appendix 3). As such, and in so far as appendix 2 to the attachment was also previously submitted directly to the Security Council in August 1992 (S/24388, annex) and is therefore already available in two other United Nations documents, it has been decided to forgo reproducing the annexes here.

"On instructions from my Government, I have the honour to transmit to you herewith the response of the Government of Iraq to the interim report on the situation of human rights in Iraq prepared by Max van der Stoel, Special Rapporteur (S/24386, annex).

"I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly under agenda item 97 (c).

"Annex

Response of the Government of Iraq to the interim report on the situation of human rights in Iraq prepared by Max van der Stoel, Special Rapporteur (S/24386, annex)

INTRODUCTION

1. The competent Iraqi authorities have examined Part I of the interim report on the current situation in the southern marshes submitted to the Security Council by the Special Rapporteur (S/24386, annex). In it, the Special Rapporteur elaborates to some degree on the recommendation he made in his report to the Commission on Human Rights at its forty-eighth session, held at the beginning of 1992, for the sending of human rights monitors to Iraq as part of "an exceptional response to this exceptional situation" (S/24386, para. 3).

2. In the introduction to the interim report, it is stated that "The special alarm that strikes the Special Rapporteur at this time relates to the reliable and disconcerting information that Iraqi military forces have launched a series of attacks against the civilian population in the marsh area which borders the Islamic Republic of Iran" (S/24386, para. 4).

3. In view of the seriousness of the claims made, the Special Rapporteur should certainly have sought prior confirmation of their veracity from the Iraqi authorities so as to be fully aware of the true

state of affairs. Accordingly, rather than allowing such claims to be accepted as indisputable facts, justice and logic require that the Government of Iraq should be given the opportunity to present its viewpoint on the statements directed against it.

4. The sufferings of the Iraqi people, whether in the north, centre, south, east or west of the country, have no relation to the claim that the Government of Iraq is pursuing a policy of repression against its people but came about as a result of the interference of the countries that engaged in aggression against Iraq. This difficult and tragic situation has continued to obtain since the imposition of the economic embargo following the events of August 1990, with the abnormal circumstances to which it has given rise for Iraq such as the rise in prices and the difficult living and health conditions whose impact is having adverse repercussions on the lives of citizens. Rather than speaking of an alleged internal blockade, the Special Rapporteur should have felt duty-bound to address in his report the matter of the unjust economic embargo to which the Iraqi people has been subjected from 2 August 1990 up to the present time.

5. The Government of Iraq has cooperated fully with the Special Rapporteur, and it responded to all of the questions and inquiries he made in September 1991. He was received by high-level officials of the Government of Iraq during his visit in January 1992, and he was provided with all the facilities required for the proper accomplishment of his task. Despite these facts, we find that, instead of regarding such cooperation as reflecting a positive attitude on the part of the Government of Iraq, the Special Rapporteur proceeded to depart from his assignment and to rely for a major part of his information on material given currency by parties hostile to Iraq, whether countries or individuals, without troubling himself to scrutinize the veracity of that information. What is more, to the astonishment of the Government of Iraq, the Special Rapporteur prepared this report, which he calls "Part I of the interim report", and submitted it directly to the Security Council instead of submitting it, as is the proper procedure, to the General Assembly at its regular session. The report was, moreover, sent in haste before assuming its final form on the basis of the alleged gravity of the situation in southern Iraq and the impact of events there on international peace and security in the region.

6. Regrettably, the Special Rapporteur has completely abandoned impartiality and objectivity and the humanitarian considerations imposed by the nature of the task entrusted to him and proposes to adopt unusual measures in the conduct of his work on the pretext of addressing the situation in Iraq. He proceeded to leak his report to the press and information media and participated personally in the campaign being waged against Iraq by the United States of America and its allies by holding seminars and television interviews at a time when the logic of the situation advocated that he should have been cooperating with the Government of Iraq in fulfilling his assignment.

7. The Government of Iraq calls upon the Special Rapporteur to be bound by objectivity and impartiality and to give careful scrutiny to the reports, allegations and information reaching him. It hopes that the Special Rapporteur will re-examine the allegations and claims cited in his report, that he will amend them in deference to the character of his assignment and the mandate entrusted to him and that he will adhere to the terms of his mandate and not make of it a tool for the attainment of preordained political goals.

## I. THE SITUATION IN THE SOUTHERN MARSHES

8. It is stated in the report that there is a comprehensive campaign characterized by measures of extreme force against the Marsh Arabs and particularly in the marsh areas which border Iran. The measures taken by the Iraqi authorities to pursue deserters from military service and the criminals who often take refuge in the marsh areas to evade legal investigation of the crimes they have committed pertain to the responsibility of the Iraqi State to maintain security and stability in the country. In another respect, all of those who follow events are aware that Iran has been interfering in Iraq's internal affairs and is continuing to do so, especially in the border regions that include the marsh area, and that it is Iran that is supplying these outlaws with weapons and explosives with a view to causing problems for Iraq and undermining its internal situation. This is an objective that is being officially declared by the Iranian authorities and by Iranian officials, and the Iraqi authorities have irrefutable evidence to that effect. We enclose herewith a letter from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General concerning Iran's interference in the internal affairs of Iraq (appendix 1). According to an Agence France-Presse dispatch from Teheran on 2 August 1992, the Iranian newspapers reported that the Supreme Council for National Security, meeting under the chairmanship of Iranian President Rafsanjani, criticized what it called the "negligence" of the United Nations in coping with developments in the situation in southern Iraq and in protecting the lives of the inhabitants.

9. The elements involved in sabotage frequently engage in acts of robbery and murder and the destruction of the homes and property of the Marsh Arabs, particularly in those areas where the de facto presence of the competent government authorities is made difficult by the harsh natural features of the terrain. It has accordingly been the duty of the State from time to time to pursue such criminal elements in order to maintain security and ensure the safety of citizens. In 1991, the Government of Iraq officially proclaimed a general amnesty for deserters and those who had participated in disturbances with the exception of those guilty of premeditated murder or rape. The amnesty extended to all Iraqis, whether in northern, southern or central Iraq.

10. The Special Rapporteur has considered the policies affecting the Marsh Arabs as "partly related to their religious beliefs" (S/24386, para. 10). In this connection, we must stress that the Government of Iraq does not pursue any policy of a sectarian character against its people. Iraq has been known for many centuries as a country of religious denominations and religious tolerance where all religions and confessional groups have lived together in peace and where their interaction and brotherliness have been an attested source of human enrichment. It appears that the Special Rapporteur is not aware of the true state of affairs with regard to the cultural, confessional and religious situation in Iraq as a whole, inasmuch as all the Islamic schools of thought are based on one doctrine, namely Islam. It was clear to the Iraqi officials who met the Special Rapporteur and held far-reaching discussions with him during his visit to Iraq that this person knows nothing of the ancient or modern history of Iraq or of its social circumstances and that he has prejudged ideas that are not based on facts or on a scientific understanding of the reality of the country. This confirms that he was selected with a view to advancing political objectives rather than to addressing human rights issues in an objective manner.

11. The Special Rapporteur states that "As a result of the continuing military operations, there have also been reports of disappearances" (S/24386, para. 12). Most regrettably, in common with many of the allegations made against Iraq, this statement is greatly lacking in specificity. It cannot be answered without reference to specific and detailed cases together with names and dates of disappearance that can be investigated by the competent authorities, as was the customary procedure in respect of cases submitted by the Special Rapporteur in the past.

12. The Special Rapporteur claims that "At the same time as the local population has been suffering stepped-up military attacks, the Government of Iraq has apparently also been proceeding with the forced relocation of Marsh Arabs and inhabitants of the neighbouring villages" (S/24386, para. 13). This allegation is groundless. Despite the improvement in the living conditions of the Marsh Arabs in recent years as a result of government solicitude, life in the marshes remains hard, and this has prompted the Government of Iraq to propose to them voluntary relocation to nearby population centres where health, educational and other services are available. As to his claim that it "was apparently recently admitted" by the National Assembly Speaker that the population inhabiting the marshes is being forcibly relocated (S/24386, appendix, second para.), this allegation is untrue inasmuch as no such statement has ever been made by any Iraqi official.

13. It is stated in the report that "the Government of Iraq has held the marsh area subject to an internal economic blockade for some time" (S/24386, para. 14). There is no truth to this allegation, and foodstuffs and medical supplies are being distributed by agents of the Ministry of Trade who deliver to residents their allotments of foodstuffs

in accordance with the monthly ration cards which, owing to the unjust economic embargo, have been instituted by the State in order to provide for the minimum needs of citizens. Hospitals are being supplied with the few essential medicines available for free distribution to patients. The Government of Iraq has invited the world's humanitarian organizations, parliamentarians and press to visit the area, ascertain the falsity of these allegations and see the situation in the area as it really is.

14. The Special Rapporteur claims that "... the greatest threat to the inhabitants of the southern marshes is posed by the enormous water diversion programme which is proceeding at a rapid pace. Known as the "Third River Project", the Government programme ... will clearly result in the draining of much of the marsh area of its watercover, surrendering the silty soils to the dry air. ... The programme may also be seen as a method to facilitate government control over the population in the area. In the opinion of the Special Rapporteur, ... the "Third River Project" should be immediately brought to a halt ..." (S/24386, para. 15).

15. It is astonishing that the Special Rapporteur should focus in his report on the Third River project, technically known as the Main Outfall Drain project, and should consider it the greatest threat to the inhabitants of the marsh area because it will divert water, destroy fisheries and cause grave damage to the environment. The truth is that the Third River will be the backbone of a solution to the problems of the area extending from central to southern Iraq where agricultural land is characterized by high salinity and that it has many potential benefits such as the drainage of agricultural land, the lowering of the ground-water level, the restoration of fertility to the soil and the development of fisheries, to say nothing of the fact that the Main Drain can be used for purposes of inland navigation. We enclose herewith a study on the Main Drain project and its historical background and anticipated benefits (appendix 2).

16. The Government of Iraq would also like to call the attention of the Special Rapporteur to the fact that a number of Western specialists have refuted the allegations made with respect to the Third River project. In an article published in The Washington Post in its issue for Friday, 4 September 1992, Professor Thomas Naff states that the Main Drain project is a canal that runs between the Tigris and the Euphrates whose function is to channel polluted drainage water into the sea that would otherwise be returned to the two rivers, the marshes or other canals (enclosure 3).

17. Finally, we should like to point out that there is such interest in completing this vital project at the present time because it is viewed as a means of coping with the adverse impact of the economic embargo by finding additional resources to meet the serious shortfall in foodstuffs and of stimulating the Iraqi economy.

## II. A SYSTEM OF HUMAN RIGHTS MONITORING

18. The Special Rapporteur proposes that a body of human rights monitors should be established, similar to the weapons inspection teams, and that they should be deployed and remain in various parts of Iraq, "incorporating a monitoring operation into the service of the Special Rapporteur" (S/24386, para. 17). These monitors would provide the Special Rapporteur with information relating to human rights violations, make unannounced visits to places of detention, observe trials and court proceedings and make representations on behalf of the Special Rapporteur to local authorities in the event of urgent matters. They would enjoy the privileges and immunities of United Nations personnel and would have very wide powers, in a manner blatantly incompatible with the concepts of sovereignty, independence and non-interference in internal affairs. The Special Rapporteur would thus make of the monitors something resembling the political agents of the colonialist States, in total disregard of the authority of the Iraqi State to exercise its powers in full sovereignty and independence.

19. The Government of Iraq peremptorily rejects the idea of sending human rights monitors and any interference in its internal affairs. Clearly, the idea being promoted by the Special Rapporteur would establish a precedent that would become a tool in the hands of hegemonistic international forces with which to threaten third world peoples and any State desiring to preserve its sovereignty and independence.

## III. CONCLUSION

20. In conclusion, reference must be made to the letter from the Special Rapporteur addressed to the Minister for Foreign Affairs of Iraq (S/24386, appendix). It is a repetition of the claims and allegations made in the interim report submitted to the Security Council, of which we have stated our view in our detailed response, and it has the aim of assiduously offering offence to Iraq and promoting its fragmentation on a confessional basis in a manner in keeping with the colonialist policy being pursued by the United States of America and its allies.

21. The truth of this inference is confirmed by the fact that, in cooperation with the United Kingdom and France, the United States Administration has exploited the report of the Special Rapporteur, which was submitted in an improper and contrived manner to the Security Council, in order to justify its iniquitous decision to prohibit Iraqi aircraft from flying south of the 32nd parallel so as to advance its political objectives of partitioning Iraq and gaining control of its oil wealth.

22. The work of the Special Rapporteur and his ideas for addressing the situation of human rights in Iraq fall within a preconceived plan for the contrivance of an international crisis directed against our country in coordination with the parties hostile to it. Such conduct therefore constitutes a breach of the norms governing the work of special rapporteurs, which is presumed to be characterized by impartiality and objectivity.

23. With regard to the question of cooperation with the Special Rapporteur, we should like to state that the Government of Iraq has cooperated with him fully in the past and that it responded to the questions and inquiries submitted by him and provided him with the necessary facilities during his visit to Iraq at the beginning of the year."

46. The following letter, dated 8 October 1992, was in reply to an appeal made by the Special Rapporteur on 7 October 1992 (see appendix I to the present report):

"The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the United Nations Centre for Human Rights and has the honour to inform the Centre that it has transmitted the Centre's letter No. G/SO 212(72-1) of 7 October 1992, together with its annex, the letter from the Special Rapporteur of the Commission on Human Rights, Mr. Max van der Stoel, to Iraq's Ministry of Foreign Affairs.

"In this connection, the Mission requests that the Centre kindly inform the Special Rapporteur, Mr. Max van der Stoel, that Mr. Mohammad Taqi al-Khoei, son of the late Grand Ayatollah al-Khoei, met the President of the Republic of Iraq, H.E. Mr. Saddam Hussein, yesterday, 7 October 1992.

"At the time of this meeting, Mr. Mohammad Taqi al-Khoei was accompanied by the supreme religious dignitaries of the governorates of Najaf and Karbala, Sheikh Ahmad Kazim al-Bahadli, Sheikh Ja'far Ali al-Nailiet and Sheikh Bakr Sharif Mahdi, who all expressed their gratitude to the President of the Republic for the kindness extended to the deceased before his death and for the President's dispatch of a representative to convey his condolences."

## B. Observations of the Special Rapporteur

47. In response to the information provided and the arguments advanced by the Government of Iraq in its various correspondence as reproduced above, the Special Rapporteur believes it is necessary to make certain observations.

48. Following in chronological order, the Special Rapporteur read with interest the list of "decisions taken during 1990 and 1991 in regard to the harsh treatment of suspects during questioning" (see para. 39, letter of

28 February 1992). Prima facie, the list is evidence of at least a certain lack of control over police officers. Upon closer examination, it is also to be observed that 10 of the 27 cases reported list the accusation as an unspecified "torturing" - often for unspecified or relatively minor reasons, such as suspicion of "shoplifting" in the tenth case. With this disquieting information, therefore, the Special Rapporteur is bound to repeat his earlier expressed interest (A/46/647, para. 70) in knowing what measures the Government has taken to implement the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Punishment.

49. With respect to the Government of Iraq's letter of 5 March 1992 (see para. 40 above), the Special Rapporteur observes the following:

(a) The response of the Government to the large number of persons who have disappeared, often identified in detail and frequently last known to have been in the custody of Government of Iraq forces, is inadequate. In that connection, reference is made to the previous observations and conclusions of the Special Rapporteur (A/46/647, paras. 66 to 67 and E/CN.4/1992/31, para. 149). The Special Rapporteur also fails to understand why the Government has not at least endeavoured to address the evident problem of disappearances by establishing an independent commission of enquiry, as recommended by the Special Rapporteur (E/CN.4/1992/31, para. 158(2));

(b) The Special Rapporteur is of the opinion that the Government of Iraq has failed to provide convincing evidence that the documents reproduced in annex II of his report to the Commission on Human Rights dated 18 February 1992 are not legitimate. The Special Rapporteur observes in this connection that the legitimacy of the documents is supported by the fact that he is in possession of hundreds of similar documents;

(c) The explanation of the Government of Iraq for the destruction of the religious school at Samarra simply does not hold up to scrutiny. To begin with, it does not appear that Samarra experienced any of the disturbances of March 1991; it is to be noted that Samarra is located in the central area of Iraq and has a Sunnite Arab population. In any event, there is no evidence of damage being done to any other structures in the city. What is absolutely clear, and was observed by the Special Rapporteur in person on 5 January 1992, is that the school has been completely razed to the ground in such a meticulous manner that it appears carved out of the neighbouring buildings. Testimony received by the Special Rapporteur from several reliable sources further asserts that, prior to its destruction, the school was active and was visited by persons from the Ministry of Awqaf and Religious Affairs prior to its destruction, and it was destroyed by Iraqi Army tanks and the remains were removed and the land levelled by government bulldozers.

50. In regard to the Government of Iraq's letter of 9 March 1992 (see para. 41 above), the Special Rapporteur takes note of the names of the 26 persons released by the Government due to the lack of evidence against them. In so far as those 26 persons were among the 1,100 persons said by the

Government not to have been covered by the amnesty decrees which followed the March 1991 uprisings, the Special Rapporteur remains interested in the fate of the other 1,074 persons who were evidently accused of committing murder or rape, thereby excluding them from the protection of the amnesty decrees.

51. As concerns the content of the Government of Iraq's letter of 5 May 1992 (see para. 42 above), the Special Rapporteur again expresses his reservations over the reconstruction of holy and historical sites in the absence of consultations with the religious communities concerned and, according to information received by the Special Rapporteur, against their wishes. In the particular case of the Wadi al-Salaam cemetery in Najaf, the Special Rapporteur has observed in person both the damage sustained by this ancient cemetery as a result of the March 1991 uprisings and also the initial work of the Government to "reconstruct" the cemetery. However, and as previously recounted (see E/CN.4/1992/31, para. 119), the construction of a large highway through the middle of this internationally renowned and most holy of sites can hardly be characterized as acceptable or legitimate "reconstruction". Other replanning, paving, expanding, lighting and fencing also seems at odds with the respect to be given the site, according to the wishes of the religious community.

52. The Special Rapporteur believes that he has specifically addressed the information provided by the Government of Iraq in its letter of 17 June 1992 (see sect. A, para. 43 above). None the less, it may further be observed that the money to have been earned by the Government of Iraq through the proposed sale of oil according to United Nations resolutions 706 (1991) and 712 (1991) would have largely satisfied the needs of the people of Iraq as outlined by the Government.

53. Turning to the Government of Iraq's letter of 5 October 1992 and the annex thereto (see para. 45 above), the following observations seem warranted:

(a) Contrary to the Government's contention at paragraph 4 of the attachment, the Special Rapporteur believes that evaluation of economic rights in Iraq must be made in the context of the situation in which the Government finds itself and, above all, in terms of those things for which the Government is responsible. Hence, it is not a question of considering the impact of the internal embargoes "rather than" addressing the United Nations sanctions, or vice versa: both must be taken into consideration, with appropriate emphasis on the Government's responsibilities. In this context, the Special Rapporteur observes that the United Nations sanctions explicitly exempt medicaments and foodstuffs, while the Special Rapporteur considers that there is no excuse for the Government of Iraq's imposition of strict economic embargoes <u>within</u> the country;

(b) The Special Rapporteur does not believe that he has acted improperly or partially in any respect, as the Government of Iraq contends in paragraphs 5 and 6 of the attachment. The Special Rapporteur has never "leaked" any of his reports to the press or organized any "seminars", nor is he associated with any "campaign being waged against Iraq". Indeed, the Special Rapporteur has acted carefully to maintain his impartiality and objectivity, motivated

only by the humanitarian considerations implicit in the mandate entrusted to him;

(c) In response to the contentions of the Government of Iraq in paragraphs 8 and 9 of the attachment, that the measures taken in the southern marsh area are in pursuit of "deserters from military service and the criminals who often take refuge in the marsh areas to evade legal investigation of the crimes they have committed", it must be stressed that the indiscriminate bombardment of villages and other settlements, resulting in the injury and death of innumerable innocent civilians, cannot be accepted as part of an effort to apprehend suspected criminals. Such techniques of "investigation" far exceed the limits of acceptable means of police work and violate both the rights of the victimized innocent civilians and the rights of the suspected criminals. In this connection, large military operations waged against whole civilian populations over entire territories cannot be justified by sweeping characterizations of some nebulous "elements involved in sabotage" or by references to "criminals";

(d) With reference to the contents of paragraph 10 of the attachment, the Special Rapporteur holds no prejudice for or against any group within Iraqi society, but only observes that certain groups clearly bear the brunt of violative government policies and actions. In this respect, however, and whatever may be the motivations of the Government of Iraq, the fact remains that the Government's policies constitute and cause violations of any number of individual rights;

(e) As concerns the Government of Iraq's programme to relocate the Marsh Arabs on a purportedly "voluntary " basis (see para. 12 of the attachment), the Special Rapporteur has reliable information that the relocation is, in fact, against their will. Of course, with many of their homes and much of their environment destroyed by Government actions, large numbers of people have had no choice but to seek other places of residence, often in the relative safety of the villages and towns on the outskirts of the marshes. Moreover, the idea that such a programme of relocation is desired by the Marsh Arabs because of the Government's contention that "life in the marshes remains hard" seems absurd for an indigenous people who have proudly maintained their lifestyle through thousands of years;

(f) In terms of the Government of Iraq's characterization of the proposed human rights monitors as "something resembling the political agents of the colonialist States" (para. 18 of the attachment), the Special Rapporteur observes that respect for human rights is not an internal affair according to contemporary international law, and so appropriate international means of both monitoring and ensuring respect for human rights cannot be interpreted as either the interferences of "political agents" or as colonialism. Where there is reliable information pointing to extremely grave and persistent human rights violations, more developed systems of monitoring (such as proposed by the Special Rapporteur in A/47/367) would seem appropriate. In the case at hand, it is perhaps necessary to recall that the human rights monitors proposed by the Special Rapporteur would have limited

tasks and duties, which should not raise objections in any open society confident of its record on human rights;

(g) The Special Rapporteur believes that other matters raised in the attachment to the letter of 5 October 1992 have been dealt with elsewhere in this report.

54. Finally, the Special Rapporteur finds little comfort in the Government of Iraq's letter of 8 October 1992 (see para. 46 above) inasmuch as it simply confirms that events took place which had, in fact, raised the Special Rapporteur's concern; in the light of reliable information that Said Mohammed Taqi al-Khoei was being pressured to appear with President Saddam Hussein and to express appreciation for the Government's behaviour vis-à-vis the mourning of the Grand Ayatollah's death, the fact that those events came to pass in no way demonstrates that they were achieved with the free consent of the individuals concerned.

## C. Information yet to be received from the Government

55. Notwithstanding the replies of the Government of Iraq, as contained in the correspondence reproduced above, to questions put by the Special Rapporter, there yet remain several significant concerns expressed by the Special Rapporteur for which answers have not been received. While a list of the most significant of these was compiled by the Special Rapporteur for his report of 18 February 1992 (E/CN.4/1992/31, para. 143), it would appear still useful to take account of some of those questions outstanding.

(a) The Special Rapporteur has yet to receive information on the number of applications for the equivalent of a writ of habeas corpus received and granted by the Government in 1990-1991;

(b) The Special Rapporteur has yet to receive information on the number of persons taken into custody in 1990-1991 without the legal possibility of the equivalent right of habeas corpus;

(c) Notwithstanding the Government's oft repeated desire to cooperate, it has yet to indicate what procedural recourses are available for the investigation of reports of disappearances;

(d) The Special Rapporteur has yet to receive information on the actual measures that have been taken to implement the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(e) In addition to failing to respond to specific cases of allegations of extrajudicial killings (as noted in A/46/647, para. 73), the Government has failed to indicate whether or not a government inquiry has been established to look into the various allegations;

(f) The Special Rapporteur has yet to receive specific details of the civilian and military laws permitting prosecution of those responsible for orchestrating and carrying out extrajudicial killings;

(g) The Special Rapporteur has yet to receive information on the number of persons prosecuted in each of the last four (now five) years for extrajudicial killings;

(h) The Special Rapporteur has yet to receive an indication of the recourse procedures available to the relatives of victims of extrajudicial killings;

(i) The Special Rapporteur has yet to receive a response to the allegation of the Government's indiscriminate bombardment of residential areas during the March 1991 uprisings;

(j) The Special Rapporteur has yet to receive a response to the allegation that the Government gave instructions (during the March 1991 uprisings) to civilians to evacuate whole towns and larger centres, under threat of the use of chemical weapons and gases;

(k) The Special Rapporteur has yet to receive information concerning the percentage of cases heard by the Revolution Court that resulted in findings of guilt;

(l) The Special Rapporteur has yet to receive information on the percentage of trials by the Revolution Court and other special and temporary courts that were conducted in camera, or information on the percentage of defendants represented by lawyers of their own choosing;

(m) The Special Rapporteur has yet to receive information concerning the number of persons arrested for political offenses each year since 1 January 1988;

(n) Irrespective of the fact that Mr. Ian Richter has since been released by the Government of Iraq, the Special Rapporteur remains interested in, but has yet to receive, most of the information requested in paragraph 42 of document A/46/647, especially a detailed description of the evidence upon which Mr. Richter was found guilty and spent five and a half years in prison;

(o) The Special Rapporteur has yet to receive information concerning the extent to which the Turkoman language may be used in public institutions in those regions with large Turkoman populations;

(p) The Special Rapporteur has yet to receive copies of the Iraqi laws pertaining to nationality and deportation, as requested in his memorandum of 16 September 1991 and reiterated in paragraph 90 of document A/46/647. Likewise, he has yet to receive information of the definitions of the terms "Iranians" and "foreigners" as found in the Iraqi laws in question;

(q) The Special Rapporteur has yet to receive information on the numbers of religious institutions and theologians as of 1 January 1988 in the cities mentioned in paragraph 51 (a) of document A/46/647;

(r) The Special Rapporteur has yet to receive information on the consultations held between the Minister of Awqaf and Religious Affairs and representatives of the relevant religious communities concerning reparations to the religious institutions and properties damaged in the March 1991 uprisings;

(s) The Special Rapporteur has yet to receive replies to the allegations relating to various prohibitions and restrictions on religious practices ranging from traditional dress to the performance of rites;

(t) The Special Rapporteur has yet to receive a reply to the allegation that more than 1,000 religious books have been banned by the Ministry of Information;

(u) The Special Rapporteur has yet to receive information detailing the exact special measures the Government claims to have taken to respond to the needs of the most vulnerable, such as infant children, nursing mothers, the elderly, the wounded and the ill, as addressed above.

## IV. CONCLUSIONS AND RECOMMENDATIONS

### A. Conclusions

56. Taking into account the information and considerations offered above, together with such other information as has come to the attention of the Special Rapporteur in his daily study of the situation of human rights in Iraq, the Special Rapporteur concludes that:

(a) The economic and social situation throughout Iraq is poor and points to potential disasters on massive scales in the southern marsh area and in the Kurdish controlled northern area;

(b) Despite the existence of technical difficulties (which the Special Rapporteur is confident could have been overcome), the Government of Iraq has failed to take advantage of the opportunity to enlarge its resources of food and medicaments insofar as it has failed to take up the so-called "food for oil" formula devised in Security Council resolutions 706 (1991) and 712 (1991);

(c) So long as it maintains its internal embargo against the Kurdish controlled northern area and imposes a de facto embargo against the inhabitants of the southern marshes, the Government of Iraq is solely responsible for its failure to respect the rights to food and health of the affected populations;

(d) By having pursued The Third River project without consulting the indigenous peoples of the southern marshes, and without having engaged them in

a programme of appropriate and adequate compensation, the Government of Iraq has failed to respect the rights of the affected population;

(e) The Secretary-General's expressed concern over the "absence of a United Nations presence in the South" (see S/24509, second last paragraph), coupled with the terms of the MOU of 22 October 1992 which provides for the presence of United Nations Guards only in the three northern governorates and in Baghdad, once again raises the relevancy and usefulness of the Special Rapporteur's call for the stationing of human rights monitors as described in part I of the Special Rapporteur's interim report (A/47/367, paras. 17 to 26).

57. With respect to the general situation of human rights in Iraq, the Special Rapporteur continues to examine allegations and evidence of violations and to study the situation. Since his last report, however, he finds no basis to conclude that the situation is improving or will improve. But with the hope of visiting the country again at the end of November, the Special Rapporteur expects to be in a position to pronounce himself more clearly in this regard in his forthcoming report to the Commission on Human Rights.

## B. Recommendations

58. Upon consideration of the above, the Special Rapporteur recommends that:

(a) The Memorandum of Understanding signed 22 October 1992 between the United Nations and the Government of Iraq be immediately and fully implemented in the best humanitarian spirit;

(b) The Government of Iraq immediately act to remove any and all obstacles, including proclaimed or de facto internal embargos, to the fair and equitable enjoyment of the basic foodstuffs and medical supplies available to the country;

(c) The Government of Iraq move quickly to accept such terms of a United Nations supervised sale of Iraqi oil as would enlarge the material resources available to the Government in fulfilment of its obligations to respect the rights to food and health;

(d) The Government of Iraq immediately initiate consultations with the tribal peoples of the southern marsh area in an effort to secure their economic, social and cultural rights and to arrange for appropriate compensation for any damage to their ancestral homeland and way of life;

(e) The Government of Iraq accept the deployment of human rights monitors throughout the country, but especially in the southern area.

## Notes

a/ Report of the World Commission on Environment and Development, "Our Common Future" (A/42/427, annex), chap. 4, para. 75, known as the Brundtland Report.

APPENDIX I

Letter dated 7 October 1992 from the Special Rapporteur of the Commission on Human Rights addressed to the Minister for Foreign Affairs of Iraq

It has recently been brought to my attention that Said Mohammad Taqi al-Khoei, son of the late Grand Ayatollah al-Khoei, was detained for some hours by officials of the Government of Iraq on 23 September 1992 in Najaf. According to the information received, the government officials demanded that Mr. al-Khoei make certain public statements and pay a visit of appreciation to President Saddam Hussein in Baghdad. These demands have reportedly been accompanied by threats and intimidation from Iraqi security personnel.

In view of Mr. al-Khoei's previous experience of having been forcibly brought to Baghdad and pressured to appear with President Hussein on Iraqi television after the March 1991 uprisings, and in the knowledge of the continuing disappearance of over 100 senior associates of the late Grand Ayatollah who were seen to have been arrested in Najaf in April 1991 at the same time that the Grand Ayatollah and his son Mohammad Taqi al-Khoei were brought to Baghdad, these reports cause me great concern about Mr. al-Khoei's personal safety and that of other remaining close associates of the late Grand Ayatollah.

With regard to the above reports, I would welcome your comments. In the event that the above information should be correct, I would like to remind your Government in particular of its obligations under Articles 9, 18 and 19 of the International Covenant on Civil and Political Rights which concern, respectively, the right to liberty and security of person, the right to freedom of thought, conscience and religion, and the right to hold opinions without interference.

(Signed) Max VAN DER STOEL
Special Rapporteur on the situation
of human rights in Iraq

H.E. Mohammad Said al-Sahhaf,
Minister for Foreign Affairs,
Baghdad, Republic of Iraq

APPENDIX II

Attachment to the letter of 28 February 1992 from the Government of Iraq addressed to the Special Rapporteur

Decisions taken in 1990-1991 regarding the harsh treatment of suspects during questioning

| Case No. | Directorate | Legal article | Name and rank of accused | Reason for forming board of inquiry | Outcome |
|---|---|---|---|---|---|
| 844/1991 | General Directorate of Police | 322, 331 and 332 of the Penal Code | First Lieutenant Sabah Mahmud Abed<br>Inspector Riyadh Khalaf Rumh<br>Inspector Ali Abdul Karim<br>Sergeant Major Sattar Jabbar | For taking citizen Sabah Yusuf Aziz to the Police station without a judge's order and assaulting him on the pretext that he had been molesting young women. | First Lieutenant Sabah Mahmud was sentenced to one month's simple imprisonment pursuant to article 322 of the Penal Code, plus 20 days' simple imprisonment pursuant to articles 332 and 142 of the Penal Code. The other three accused were sentenced to two months' simple imprisonment pursuant to article 322 of the Penal Code. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| 600/990 | Salahuddin Police | 332 of the Penal Code | Inspector Muhammad Majid Hassan (retired)<br>Sergeant Major Khalaf Ibrahim Hassan (retired) | For using force with the complainant, Corporal Farah Ahmad Ounbur. | The court decided to change the article under which they were charged to article 333 of the Penal Code and sentence the accused to one month's simple imprisonment pursuant to the latter article. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| 1113/91 | Baghdad Police | 332 of the Penal Code | Captain Hazim Shabib Hiza'<br>First Leutenant Ziyad Latif Salih | For verbally abusing a military warrant officer, Abdul Sattar Khalaf Hamadi. | Pending proceedings. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| 174/990 | Baghdad Police | 332 of the Penal Code | 2nd Lieutenant Nazim Ahmad Ma'ruf<br>Sergeant Ahmad Muhibb Dhiyab | For beating and verbally abusing military Captain Abbas Salman Khudhair when attempting to park his vehicle in Rashid Street. | Case covered by general amnesty decree No. 324 of 15 August 1990. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| 8/1990 | Kerbala Traffic Police | 413 of the Penal Code | Corporal Yasir Hassan Jabbar | For assaulting the complainant, Private Hamid Hassan Muhaisan. | Case covered by general amnesty decree No. 324 of 15 August 1990 promulgated by the Revolution Command Council. |
| 136/991 | Babil Police | 331 of the Penal Code | Lieutenant Colonel Akram Ismail<br>Inspector Jawwad Kadhim | For assaulting a citizen, Muhammad Ismail, exceeding the limits of their official authority and placing him in detention. | Pending proceedings. |
| Court of the Internal Security Forces for the Central Region | | | | | |

| Case No. | Directorate | Legal article | Name and rank of accused | Reason for forming board of inquiry | Outcome |
|---|---|---|---|---|---|
| 63/990 | Babil Police | 331 of the Penal Code | Lieutenant Muhammad Zaidan Hussein<br>Inspector Abbas Lafta Mukhtar | For beating the complainant, Ahmad Abdul Salam, a suspected thief. | The two accused were covered by general amnesty decree No. 324 of 15 August 1990 promulgated by the Revolution Command Council. The case was referred back. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| 50/990 | Babil Police | 413/1 of the Penal Code | Inspector Karim Sahib Mahdi<br>Sergeant Major Mu'in Sabr Salman (retired)<br>Sergeant Major Abed Muhammad Hamza (retired) | For assaulting Warrant Officer Ali Abed Hasoun and his brother, who were suspected of assaulting a citizen during an argument. | The two accused were covered by general amnesty decree No. 324 of 15 August 1990 promulgated by the Revolution Command Council. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| | Baghdad Police | Board of inquiry | Captain Falah Khalaf Jabir<br>Inspector Saddam Hamudi | Accused of assaulting the suspect, Hussein Sa'dun, for firing shots and breaking a shop window while under the influence of excessive alcohol. | Case still under investigation. |
| Rusafa Court of Inquiry | | | | | |
| | Baghdad Crime Prevention Police | 332 of the Penal Code | Captain Ra'ad Nayif Dhunun and members of the Karkh Crime Office | For torturing the citizen Muwaffaq Rani Majid, who was accused of shoplifting. Legal action against them was approved at the request of the Karkh examining magistrate. | Case still pending in the ordinary courts. |
| Karkh Court of Inquiry | | | | | |
| | Arbil Police | 333 of the Penal Code | First Lieutenant Ahmad Ghanim Mahmud<br>Inspector Hadi Salih Ahmad<br>Sergeant Major Hussein Mukhallaf Atiya | For torturing Sergeant Major Khalid Mustafa Qadir from the Nineveh Police Directorate, a theft suspect who consequently lodged a complaint against them. | The officer was sentenced to three months' imprisonment, and the other two accused to one month's imprisonment. |
| Court of the Internal Security Forces for the Northern Region | | | | | |
| | Nineveh Police | 332 of the Penal Code | Police Lieutenant Colonel Miqdad Abdullah<br>Police Captain Mahmud Hamid Ali<br>Police Captain Mukhallaf Musa Muhammad | For using force against civilians during questioning. Referred to the court as requested by the Ministry of the Interior in letter 704 dated 17 January 1990. | Each sentenced to a fine of 40 dinars and one month's simple imprisonment in the event of non-payment. |
| Court of the Internal Security Forces for the Northern Region | | | | | |

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| Case No. | Directorate | Legal article | Name and rank of accused | Reason for forming board of inquiry | Outcome |
|---|---|---|---|---|---|
| | Nineveh Police | Board of inquiry | Colonel Miqdad Abdullah<br>Major Mahmud Hamid Ali<br>Captain Ya'rub Ibrahim<br>First Lieutenant Basim Majid Hamid | For torturing the suspect Nuri Hussein, accused of kidnapping a child named Umar Adnan. | Under investigation. |
| Still under investigation (Nineveh Police) | | | | | |
| | Baghdad Police | 333 of the Penal Code | Lieutenant Colonel Salah Hussein<br>Captain Jabbar Shihab<br>First Lieutenant Ra'd Abbas<br>Two other police officers | For beating the citizen Karim Kadhim Jalab, while questioning him on a theft charge. | Under investigation/ Central Court. |
| Court of the Internal Security Forces for the Central Region (under investigation) | | | | | |
| | Baghdad Crime Prevention Police | Board of inquiry formed | Captain Imad Abdul Sada and members of the Habibiya Crime Prevention Office | For torturing Private Fadhil Jabbar Yusuf, a military deserter. | Board of inquiry formed to investigate the officer and his group. Case still under investigation. |
| Still under investigation (General Police) | | | | | |
| | Qadisiya Governorate Police | Board of inquiry formed | First Lieutenant Abbas Hassan Salman<br>Inspector Sahib Jalil Hamud<br>Inspector Nasubi Jabir Hashim | For using force against Musafir Kadhim and Taqi Hadi, both theft suspects. Approval obtained from the General Directorate of Police for legal action against the police officers. | Case still before the courts. |
| Mihnawiya Court of Inquiry | | | | | |
| | Nineveh Police | Board of inquiry | Major Mahmud Hamid Ali<br>Captain Ya'rub Ibrahim<br>First Lieutenant Basim Majid Hamid | For torturing the complainant Abdul Rahim Khudhair Jasim. | Case under investigation. |
| Court of the Internal Security Forces for the Northern Region | | | | | |
| | Baghdad Crime Prevention Police | Board of inquiry formed | Lieutenant Jabbar Eidan | Accused of torturing the citizen Shihab Ahmad Jasim, a murder suspect whose mother complained to the Ministry. Legal action ordered against the officer concerned. | Case still before the courts. |
| Rusafa Court of Inquiry | | | | | |

| Case No. | Directorate | Legal article | Name and rank of accused | Reason for forming board of inquiry | Outcome |
|---|---|---|---|---|---|
| | Baghdad Police | Board of inquiry formed | Lieutenant Amer Hashim Hussein | Accused of torturing the citizen Adil Jasim Muhammad, a complainant in a family matter, at the Dhat al-Salasil Police Station. | Case still under investigation. |
| Still under investigation (General Police) | | | | | |
| | Baghdad Crime Prevention Police | Board of inquiry | First Lieutenant Karim Hussein Ali | Accused of beating Murtadha Muhammad Tahir, suspected of theft, whose father lodged a complaint against the said officer. | Case still under investigation. |
| Still under investigation (General Directorate of Police) | | | | | |
| 1328/990 | General Directorate of Police | 120 of the Penal Code | Brigadier Abdul Karim Mut'ab<br>Colonel Zirar Hamid<br>Colonel Khalid Abdul Latif<br>First Lieutenant Qasim Shakir Sa'id<br>First Lieutenant Shihab Ahmad<br>Inspector Abed Ali Abdul Hussein | For disobeying instructions and forcing a confession from the citizen Mathal Muhammad Fadhil. | A special court, presided over by Police Major-General Tariq Ali Mahmud with Police Brigadiers Subhi Navif Mahmud and Walid Khalifa Hadawi as members, was formed in order to try the accused. It was deemed more appropriate to their acts to charge them under article 333 rather than article 120 of the Penal Code. The first accused was confined to barracks for two weeks pursuant to article 120 of the Penal Code. All four other accused were sentenced to one month's simple imprisonment pursuant to article 333 of the Penal Code. The Internal Security Forces Court of Cassation decided to reverse the decision of the special court. The case was covered by general amnesty decree No. 68 of 13 March 1991. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| | Diyala Police | 332 of the Penal Code | First Lieutenant Khaldun Abdul Ghafur<br>Inspector Ali Ismail | For using force against the citizen Saddam Hussein Ali, a theft suspect. On his release, his father complained to the competent examining magistrate and the General Directorate of Police agreed to legal action against the officer concerned. | Case still under investigation. |
| South Baquba Court of Inquiry | | | | | |

| Case No. | Directorate | Legal article | Name and rank of accused | Reason for forming board of inquiry | Outcome |
|---|---|---|---|---|---|
| | Basra Police | Board of inquiry | Lieutenant Jasim Muhammad Ali | Accused of torturing the citizen Hussein Kadhim Musa. Consent obtained from the General Directorate of Police for legal action against the said officer. | Case under investigation. |
| Basra Court of Inquiry | | | | | |
| | Baghdad Crime Prevention Police | 332 of the Penal Code | Captain Nasir Rashid Salman<br>First Lieutenant Imad Hadi Salih<br>Inspector Hashim Sabri Salih<br>Sergeant Wiidan Jabbar<br>Corporal Thajil Kamil Lahmud<br>Corporal Abbas Talib Sirhan | Accused of torturing the citizen Kamal Abdul Zahra, a theft suspect, during questioning. | Case heard by the Central Standing Court of the Internal Security Forces. The police officers and Corporal Abbas Talib Sirhan were sentenced to imprisonment pursuant to article 332 of the Penal Code. |
| Court of the Internal Security Forces for the Central Region | | | | | |
| | Babil Police | Board of inquiry | Lieutenant Imad Thamir Nasib | Accused of beating the citizen, Eidan Abbas Hussein. | Board of inquiry formed. Matter still under investigation. |
| Still under investigation (Babil Police) | | | | | |
| | Anbar Police | Board of inquiry formed | Captain Hamad Jasim Muhammad<br>Sergeant Major Shakir Mahmud Sabti<br>Corporal Mazin Thabit Nu'man | Accused of beating Warrant Officer Oais Jasim Muhaisan, under arrest on suspicion of theft. | Case still under investigation by the Central Bureau of Investigation of the General Directorate of Police. |
| Still under investigation by the Central Bureau of Investigation of the General Directorate of Police | | | | | |
| | Baghdad Crime Prevention Police | Board of inquiry formed | First Lieutenant Hamid Hussein Alwan | Accused of torturing Daram Ridha Jabr, under arrest on suspicion of theft. Consent of the General Directorate of Police obtained for legal action against the said officer. | Case still under investigation. |
| Still under investigation. To be referred to the Court of the Internal Security Forces for the Central Region | | | | | |

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